

REPLY TO FINAL OFFICE ACTION
Application Serial No. 10/679,357
Attorney Docket No. 7040.0054.01

REMARKS

Applicants submit this Amendment in reply to the Final Office Action mailed November 16, 2004. At the outset, Applicants propose to add new claims 63-110, including new independent claims 63, 82, 87 and 106. Claims 63 and 87 correspond to claim 39 and claims 82 and 106 correspond to claim 58. In addition, defendant claims 64-81 and 88-105 correspond to claims 40-57 respectively; and claims 83-86 and 107-110 correspond to claims 59-62 respectively. Applicants submit that new claims 63-110 do not raise new issues requiring further consideration and/or search, and should allow for immediate entry by the Examiner.

Before entry of this Amendment, claims 39 – 62 were pending in this application. Upon entry of this Amendment, claims 39 – 110 will be pending in this application. The originally-filed specification, claims, abstract, and drawings fully support new claims 63 - 110. Support for “wherein the substantially-continuous tread portions extend from said axially-opposed shoulder zones towards the equatorial plane of the tire to form a structurally stiff grid of elastomeric material portions fitted in with one another” recited in claims 63 and 82, may be found in the specification, for example, on page 4, lines 27 -30 . In addition, support for “wherein the substantially-continuous tread portions are provided about an axis such that during tire rolling, stresses imparted to the substantially-continuous tread portions are discharged along the axis” recited in claims 87 and 106 may be found in the specification, for example, on page 11, lines 19-22.

Claim Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected claims 39 -53 and 55 -58 under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 2,104,532 to Sommer (“Sommer”) in view of Great Britain Patent No. 2,224,472 (“Great Britain ‘472”), alleged admitted prior art

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(specification page 3, lines 1-5, “AAPA”) and Japanese Publication No. 6-247109 (“Japan ‘109”) and optionally U.S. Patent No. 1,996,418 to Hargraves (“Hargraves”). The Examiner also rejected claim 54 under 35 U.S.C. § 103 (a) as being unpatentable over Sommer, Great Britain ‘472, AAPA, Japan ‘109, and optionally Hargraves, and further in view of European Patent Application No. 565,270 to Himuro (“Himuro”). The Examiner further rejected claims 59 –62 under 35 U.S.C. § 103 (a) as being unpatentable over Sommer, Great Britain ‘472, AAPA, Japan ‘109 and optionally Hargraves, and further in view of European Patent Application No. 722,851 to Guspodin et al (“Guspodin”).

Applicants respectfully traverse the Examiner’s rejection of claims 39-53 and 55-58 under 35 U.S.C. § 103 (a) as being unpatentable over Sommer in view of Great Britain ‘472, AAPA, Japan ‘109 and Hargraves. Applicants respectfully submit that independent claims 39 and 58 are not obvious over the applied references, at least for the reasons already of record and the reasons discussed below.

To establish a *prima facie* case of obviousness over a single reference or a combination of references, the Examiner “bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” *Cf. In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). Specifically, the Examiner must prove such a desire to combine references with “substantial evidence” that is a result of a “thorough and searching” factual inquiry. *In re Lee*, 277 F.3d 1338, 1343-1344 (Fed. Cir. 2002). The Federal Circuit has on numerous occasions stated that to establish a *prima facie* case of obviousness an Examiner must show that the references, taken alone or in combination, (1) teach all the present claim limitations; (2) would have suggested to or provided motivation for one of ordinary skill in the art to make the claimed invention; and (3) would have provided one of ordinary skill with a reasonable expectation of success in so making. *See In re*

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Vaeck, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (*citing In re Dow Chemical Co.*, 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988)). “Both the suggestion and the reasonable expectation of success must be found in the prior art reference, not in the applicant’s disclosure.” *In re Vaeck* at 1442 (emphasis added).

Claims 39 and 58 were amended on August 25, 2004 to incorporate the claim language “wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion .” Claims 39 and 58 also recite that “the equatorial groove portion of each transversal groove has a uniform width.” In the most recent Office Action, the Examiner apparently acknowledges that Sommer, Great Britain ‘472, AAPA, Japan ‘109 and Hargraves fail to teach the claimed “shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion.” The Examiner states however, that Japan ‘109 teaches providing inclined grooves in an equatorial zone with a uniform width and providing branching grooves in the shoulder zones with a smaller width. See Office Action, pg. 4. In Figure 2 of Japan ‘109, the branching grooves (3) begin narrowing and do not have a uniform width in the section labeled W/2, arguably corresponding to the claimed equatorial zone. Japan ‘109, therefore at least fails to teach, “wherein the equatorial groove portion of each transversal groove has a uniform width.” and “wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion ” as recited in claims 39 and 58.

Sommer, Hargraves, Great Britain ‘472, and AAPA, also do not teach the claimed limitation “wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion,” as noted above. The

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Examiner does not rely on these references for such teachings either. Independent claims 39 and 58 are therefore distinguishable over these references as well.

In light of the above-described deficiencies of Sommer, Great Britain '472, AAPA, Japan '109, and Hargraves, Applicants submit that claims 39 and 58 are allowable over the applied references, and claims 40 -53, and 55 -57 are allowable at least due to their dependence from claim 39.

Applicants respectfully traverse the Examiner's rejection of claim 54 under 35 U.S.C. § 103(a), and the rejection of claims 59-62 under 35 U.S.C. § 103(a). The shortcomings of Sommer, Great Britain '472, AAPA, Japan '109, and Hargraves are discussed above. Himuro discloses uniform grooves (5) and Guspodin teaches the use of tread pattern which has short, interrupted grooves (36). Both Himuro and Guspodin, however, fail to teach or suggest the claimed "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion," as recited in claims 39 and 58. Claims 54 and 59-62 are therefore allowable at least due to their respective dependence from claims 39 and 58.

Claim Rejections Under Obviousness-Type Double Patenting

Applicants respectfully traverse the Examiner's double patenting rejection of claims 39 - 62 of U.S. Patent No. 6,656,300. According to 37 C.F.R. 1.32 (c)(2), those registered patent practitioners associated with a Customer Number may be named as a representative by a power of attorney. The undersigned is associated with the Customer Number in the declaration. Nevertheless, in an effort to expedite prosecution of this case, Applicants submit a Terminal Disclaimer executed by Albert J. Santorelli, who is listed on Applicants' declaration and is thus

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also of record in this case. Accordingly, Applicants respectfully request that the double patenting rejection be withdrawn.

Newly Added Claims 63-110

Applicants submit that new claims 63 -110 are patentable over Sommer, Hargraves, Great Britain '472, Japan '109, AAPA, Himuro and Guspodin. New independent claims 63 and 82 recite, among other things, "wherein the substantially-continuous tread portions extend from said axially-opposed shoulder zones towards the equatorial plane of the tire to form a structurally stiff grid of elastomeric material portions fitted in with one another." In addition, new independent claims 87 -110 each recite "wherein the substantially-continuous tread portions are provided about an axis such that during tire rolling, stresses imparted to the substantially-continuous tread portions are discharged along the axis."

With respect to claims 63-86, Applicants point out that the new claim limitations are to structural and functional features adapted not only to ensure an adequate performance of the tire, but also to maintain substantially constant—Independent of the wear conditions of the tread—performance of the tire in general and, in particular, grip on dry and wet ground, traction, lateral stability, and noise. See Specification, pg. 3, lines 25-29. The applied references are entirely silent as to such improved performances, and thus fail to teach the claimed "structurally stiff grid" as recited in new independent claims 63 and 82. Claims 63 and 82 are allowable for at least these reasons. Claims 64 -81 and 83 -86 are allowable at least due to their dependency from claims 63 and 82 respectively.

Moreover, the treads of Sommer's tire are positioned for mobility of the tread portions defined between consecutive transversal grooves instead of the claimed rigidity or stiffness. See

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pg. 2, column 1, lines 40-63. Therefore, Sommer clearly teaches away from the claimed “structurally stiff grid.”

In regards to claims 87-110, Applicants note that the Office Action cites portions of the applied references which are silent as to the stresses induced on a tire, and therefore necessarily fail to teach or suggest the claimed limitation “wherein the substantially-continuous tread portions are provided about an axis such that during tire rolling, stresses imparted to the substantially-continuous tread portions are discharged along the axis” as recited in new claims 87 and 106. Claims 87 and 106 are therefore allowable for at least this reason. Further, claims 88-105 and 107-110 are allowable at least due to their corresponding dependence from claims 87 and 106.

Claim Scope

In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants believe that Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Summary

In view of the foregoing amendments and remarks, Applicants submit that this Amendment does not raise any new issues requiring further consideration and/or search. Accordingly, Applicants respectfully request entry of this Amendment, reconsideration and reexamination of this Application, and a timely allowance of the pending claims.

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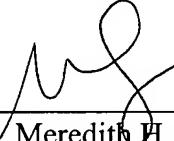
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: May 16, 2005

By:


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